

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK**

---

CAYUGA NATION, CLINT HALFTOWN,  
TIMOTHY TWOGUNS, GARY WHEELER,  
DONALD JIMERSON, MICHAEL  
BARRINGER, RICHARD LYNCH, B.J.  
RADFORD, AND JOHN DOES 8-20,

Plaintiffs,

v.

HOWARD TANNER, VILLAGE  
OF UNION SPRINGS CODE ENFORCEMENT  
OFFICER, IN HIS OFFICIAL CAPACITY;  
BUD SHATTUCK, VILLAGE OF UNION  
SPRINGS MAYOR, IN HIS OFFICIAL  
CAPACITY; CHAD HAYDEN, VILLAGE OF  
UNION SPRINGS ATTORNEY, IN HIS  
OFFICIAL CAPACITY; BOARD OF  
TRUSTEES OF THE VILLAGE OF UNION  
SPRINGS, NEW YORK; AND THE VILLAGE  
OF UNION SPRINGS, NEW YORK,

Defendants.

---

No. 5:14-cv-1317-DNH-ATB

**STIPULATION**

Plaintiffs and Defendants, by and through their respective counsel of record, hereby stipulate as follows:

WHEREAS Plaintiffs contend that the 1794 Treaty of Canandaigua created a federal reservation for the Cayuga Nation that has never been disestablished by an act of Congress and remains in existence under controlling law;

WHEREAS Defendants have filed a counterclaim contesting whether the Cayuga Nation possesses a federal reservation;

WHEREAS Defendants acknowledge that, under current precedent, the Cayuga Nation today possesses a federal reservation that has not been disestablished, such precedent including the decision of Judge Siragusa in the Western District of New York dismissing a similar counterclaim to the one filed by Defendants. *See Cayuga Indian Nation of N.Y. v. Seneca Cty.*, 260 F. Supp. 3d 290, 307-15 (W.D.N.Y. 2017); *see also Oneida Indian Nation of New York v. City of Sherrill, New York*, 337 F.3d 139, 158 (2d Cir. 2003), *rev'd and remanded on other grounds sub nom. City of Sherrill, N.Y. v. Oneida Indian Nation of New York*, 544 U.S. 197 (2005); *Oneida Indian Nation of New York v. Madison Cty., Oneida Cty., N.Y.*, 605 F.3d 149, 158 (2d Cir. 2010), *vacated and remanded as moot sub nom. Madison Cty., N.Y. v. Oneida Indian Nation of New York*, 562 U.S. 42 (2011); *Cayuga Indian Nation of N.Y. v. Village of Union Springs*, 317 F. Supp. 2d 128, 131-33 (N.D.N.Y. 2004), *vacated on other grounds*, 390 F. Supp. 2d 203 (N.D.N.Y. 2005); *see generally Nebraska v. Parker*, 136 S. Ct. 1072, 1081 (2016); *Solem v. Bartlett*, 465 U.S. 463, 466-72 (1984);

WHEREAS Defendants wish to preserve for appeal their arguments that existing precedent should be modified or should be deemed not to apply to this case, as well as to preserve any arguments that may be based on the U.S. Supreme Court's decision in *Carpenter v. Murphy* (Docket No. 17-1107), which is currently pending and is expected to be decided before the end of June 2019, any other future decision of the U.S. Supreme

Court, or any other future decision of any other court that constitutes or reflects a change in law;

WHEREAS the parties seek to proceed with an expeditious resolution of the matters in dispute in the instant case, and avoid unnecessary delay and expense;

IT IS HEREBY STIPULATED AND AGREED THAT:

1. Accompanying this stipulation, Plaintiffs have filed a motion to dismiss Defendants' counterclaim based on the existing precedent cited above;
2. By so-ordering this stipulation, the Court may grant Plaintiffs' motion to dismiss Defendants' counterclaim based on current precedent, including but not limited to the precedent identified above, without further briefing or argument, consistent with Judge Sirgusa's dismissal of a similar counterclaim in *Cayuga Indian Nation of N.Y. v. Seneca Cty.*, 260 F. Supp. 3d 290, 307-15 (W.D.N.Y. 2017);
3. Defendants fully reserve their right to argue on appeal that existing precedent should be modified, overruled, or deemed not to apply to this case, and to raise any arguments that may be based on the U.S. Supreme Court's decision in *Carpenter v. Murphy* (Docket No. 17-1107), any other future decision of the U.S. Supreme Court, or any other future decision of any other court that constitutes or reflects a change in law.

On behalf of Plaintiffs:

By: /s/ David W. DeBruin  
David W. DeBruin (*pro hac vice*)  
JENNER & BLOCK LLP  
1099 New York Ave. NW  
Suite 900  
Washington, DC 20001  
(202) 639-6000

On behalf of Defendants:

By: /s/ David H. Tennant  
David H. Tennant  
Law Office of David Tennant PLLC  
3349 Monroe Avenue  
Suite 345  
Rochester, New York 14618  
(585) 708-9338

DATE:

---

SO ORDERED:

---

United States District Judge